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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/812,036	03/19/2001	Ian M. Drysdale	FDC 0502 PUS	9345
20350	7590	05/17/2006	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834				BOUTAH, ALINA A
ART UNIT		PAPER NUMBER		
		2143		

DATE MAILED: 05/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/812,036	DRYSDALE ET AL.
	Examiner Alina N Boutah	Art Unit 2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 15 February 2006.
- 2a) This action is **FINAL**.                                   2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 18-28 and 38-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 18-28 and 38-44 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

This action is in response to Applicant's amendment filed February 15, 2006. Claims 18-28 and 38-44 are pending in the present application.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 18-28 and 38-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPAPN 2002/0095333 by Hudda et al. (hereinafter referred to as Hudda) in view of USPN 6,584,448 issued to Laor in further view of US 2002/0138372 issued to Ludtke.

(Amended) Regarding claim 18, Hudda teaches a method for a facility communication system in a commercial establishment to provide a targeted electronic communication to a user entering the establishment and having a personal wireless device comprising the steps of:

storing user specific information in a storage location (abstract);

providing the personal wireless device with a transceiver device (abstract; 0044);

recognizing the presence of the personal wireless device transceiver when the user enters the commercial establishment and the personal wireless device is within a predetermined

distance from the facility communication system within the commercial establishment (abstract; figure 6; 0025; 0044; 0149);

sending the user specific information from the personal wireless device to the facility communication system in response to recognizing the presence of the personal wireless device when the user enters the commercial establishment (0118);

comparing the user specific information to predetermined criteria (0061; 0062); and

sending a targeted electronic communication to said personal wireless device corresponding to the user specific information (0119); and

displaying the targeted electronic communication at the personal wireless device so that the communication may be used by the user while present in the commercial establishment (0124; figures 7A-8D).

However, Hudda fails to explicitly teach: recognizing the user's presence when the consumer enters the commercial establishment, sending a request for user specific information from the facility communication system to the personal wireless device in response to recognizing the presence of the personal wireless device when the user enters the commercial establishment; and retrieving the user specific information. Laor teaches sending a request for user specific information from a server to a client and retrieving specific information (col. 1, lines 29-35).

In another analogous art, Ludtke teaches when a customer has an e-coupon stored in a PDA, the PDA can alert the user whenever he or she enters a store carrying the product covered by the coupon [0054].

At the time the invention was made, one of ordinary skill in the art would have been motivated to request and retrieve information from the personal wireless device for the purpose of recognizing the wireless device and for providing some pre-determined and pre-programmed level of customization (Laor: col. 1, lines 32-35).

One of ordinary skill in art would also have been motivated to recognize the user's presence when he or she enters a store in order for him or her to be alerted when he/she is near presence of the product, and also he or she is told exactly wherein the product is located [Ludtke: 0054].

Regarding claim 19, Hudda teaches the method of claim 18 further including the step of notifying said user that a targeted electronic communication has been received by said personal wireless device (0062).

Regarding claim 20, Hudda teaches the method of claim 18 wherein said step of storing user specific information in a storage location comprises storing the user specific information within said personal wireless device (0065).

Regarding claim 21, Hudda teaches the method of claim 18 wherein said step of storing user specific information in a storage location comprises storing the user specific information at a remote storage location which is accessible by the personal wireless device (0058).

Regarding claim 22, Hudda teaches the method of claim 21 wherein the step of retrieving the user specific information comprises retrieving the user specific information from said remote storage location (0118-0120).

Regarding claim 23, Hudda teaches the method of claim 18 wherein said personal wireless device is a cellular phone (claim 22).

Regarding claim 24, Hudda teaches the method of claim 18 wherein said personal wireless device is a pager (claim 22).

Regarding claim 25, Hudda teaches the method of claim 18 wherein said personal wireless device is a personal digital assistant (claim 22).

Regarding claim 26, Hudda teaches the method of claim 18 wherein the step of recognizing the presence of the personal wireless device transceiver when the personal wireless device is within a predetermined distance from the facility communication system comprises recognizing the presence of the personal wireless device when the user enters a facility where the facility communication system is located (0025).

Regarding claim 27, Hudda teaches the system and method of claim 18 wherein said facility communication system is located in the commercial establishment and said targeted

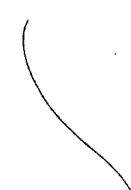
communication signal is an e-coupon corresponding to the user specific information for use at the commercial establishment (abstract; figure 6; 0025; 0044; 0149).

Regarding claim 28, Hudda teaches the method of claim 18 wherein said facility communication system is located in the commercial establishment and said targeted communication is an advertisement providing data corresponding to the user specific information and relating to a product found at said commercial establishment (0003).

Regarding claim 38, Hudda teaches the method of claim 18, wherein the predetermined criteria is information relating to specific items present at the commercial establishment so that the targeted communication pertains to both the user and the items present at the establishment (0035).

Regarding claim 39, Hudda teaches the method of claim 38, wherein the commercial establishment is a merchant location, and wherein the predetermined criteria is information relating to items for sale that are in inventory at the merchant location, so that the user specific information may be compared to those items in inventory (0061).

Regarding claim 40, Hudda teaches the method of claim 39, wherein the user specific information is product preferences of the user, and wherein the method further comprises matching user specific information to items in inventory prior to sending the targeted communication to the personal wireless device (0031).



Regarding claim 41, Hudda teaches the method of claim 18, wherein the targeted communication is advertising and wherein predetermined criteria is information relating to specific items present at the commercial establishment, so that the advertising pertains to both the user and to items present at the establishment (0044).

Regarding claim 42, teaches the method of claim 41, wherein the advertising is an e-coupon (abstract).

(Amended) Regarding claim 43, Hudda teaches a system for providing targeted advertising from a commercial establishment to a user entering the commercial establishment, comprising:

a personal wireless device carried by the user and including a transceiver device (figure 9); and

a facility communication system resident at the commercial establishment having a sensing device for recognizing the presence of the personal wireless device transceiver when the user enters the establishment and the personal wireless device is within a predetermined distance from the facility communication system (abstract; 0044; 0025; 0060);

wherein the personal wireless device sends back to the facility communication system a response data message having the user specific information (abstract; figure 6; 0025; 0044; 0149);

wherein the facility communication system compares the user specific information to predetermined criteria relating to specific items at the commercial establishment (0061; 0062);

wherein the facility communication system sends a targeted electronic communication having advertising to the personal wireless device, the targeted communication pertaining to both the user and items at the commercial establishment (0119); and

wherein the personal wireless displays the targeted electronic communication so that the advertising may be used by the user while the present in the commercial establishment (0124; figures 7A-8D).

However, Hudda fails to explicitly teach: recognizing the user's presence when the consumer enters the commercial establishment, sending a request for user specific information from the facility communication system to the personal wireless device in response to recognizing the presence of the personal wireless device when the user enters the commercial establishment; and retrieving the user specific information. Laor teaches sending a request for user specific information from a server to a client and retrieving specific information (col. 1, lines 29-35).

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One of ordinary skill in art would also have been motivated to recognize the user's presence when he or she enters a store in order for him or her to be alerted when he/she is near

presence of the product, and also he or she is told exactly wherein the product is located [Ludtke: 0054].

Regarding claim 44, the system of claim 43, wherein the targeted communication further comprises an e-coupon (abstract).

***Response to Arguments***

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

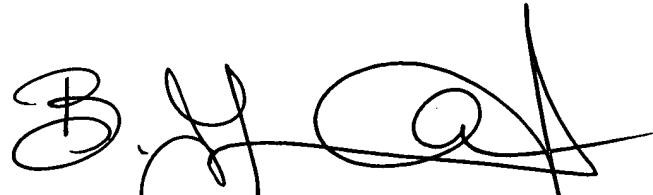
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alina N. Boutah whose telephone number is 571-272-3908. The examiner can normally be reached on Monday-Friday (9:00 am - 5:00 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*ANB*

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*BUNJOB JAROENCHONWANIT*  
SUPERVISORY PATENT EXAMINER